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USTR Sets Priorities for Global Trade Expansion and Enforcement

United States Trade Representative Charlene Barshefsky today announced the simultaneous release of the annual "Super 301," "Special 301" and "Title VII" reports -- setting the Administration's trade expansion priorities for the next year and identifying specific enforcement concerns. Ambassador Barshefsky announced that as a result of this year's review under these mechanisms, the United States would invoke WTO dispute settlement procedures in seven cases, affecting manufacturing, agriculture, intellectual property rights, and government procurement. Ambassador Barshefsky also announced today the initiation of an investigation under section 301 of the Trade Act of 1974 regarding Canadian Government measures affecting tourism.

Ambassador Barshefsky indicated that a clear priority in the months ahead, leading up to the launch of the new multilateral round, is to ensure wider compliance with the commitments made in the Uruguay Round. "As we move toward the launch of a new round of global trade negotiations at the WTO's Third Ministerial Conference in Seattle this November, it is critical that our trading partners fully implement their Uruguay Round commitments in all sectors," stated Ambassador Barshefsky. "Today's initiation of Section 301 and WTO enforcement actions underscores the determination of the United States to ensure that it receives the full benefit of its Uruguay Round agreements."

Ambassador Barshefsky will chair the WTO's Third Ministerial Conference in Seattle, Washington, on November 30 - December 3, 1999, which will be comprised of the trade ministers of over 150 countries. The principal focus of the conference will be the launching of a new round of global trade negotiations. The negotiations will include a new round of commitments in services trade, a new phase in agricultural policy reform and market opening undertakings, and other topics to be agreed upon at the Ministerial Conference, including a new round industrial

tariff-and non-tariff negotiations.

The three reports released today place a high priority on compliance with WTO commitments that entered into effect in January 1995; compliance with WTO commitments that are subject to transition periods or phase-in provisions, many of which will enter into effect by January 1, 2000; and compliance with rulings resulting from WTO dispute settlement proceedings in a timely and complete manner.

“All of these tools -- Super 301, Special 301, and Title VII -- enable us to enforce the commitments undertaken around the world to increase market access for U.S. goods and services,” explained Ambassador Barshefsky. “Taking action against those foreign government practices that conflict with existing international obligations enables the United States to open markets to U.S. exports consistent with current obligations and, at the same time, identify U.S. priorities for our future trade negotiations.”

“The seven dispute settlement cases we are announcing today address compliance with WTO obligations affecting both the manufacturing and agricultural sectors, and include claims related to subsidies, investment measures, discriminatory government procurement practices, and inadequate protection of intellectual property rights,” said Ambassador Barshefsky. “These actions underscore the Administration’s commitment to ensuring full compliance of existing WTO obligations.

“In every instance, we have focused on the course that will deliver the most effective market opening results. With respect to Japan, for example, serious concerns remain in such areas as steel, insurance, flat glass, autos and auto parts and government procurement practices related to computers and construction. We are actively engaged with Japan in each of these areas and meaningful progress will be necessary in order to avoid further trade frictions.”

The new cases announced today are:

- ▶ ***EU - Avionics:*** The United States will request WTO consultations with the EU regarding subsidies granted by France for the development of a new flight management system adapted to Airbus aircraft. This subsidy program was created with the stated objective of displacing U.S.-sourced flight management systems, constituting an actionable subsidy under the WTO Agreement on Subsidies and Countervailing Measures.
- ▶ ***EU - Geographical Indications:*** The United States will request WTO consultations with the EU regarding its regulation governing the protection of geographical indications for agricultural products and foodstuffs, which denies national treatment with respect to certain procedures concerning the registration of geographical indications, and which also does not provide appropriate protection to trademarks. The United States believes that this regulation violates EU obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).
- ▶ ***India - Autos:*** The United States will request WTO consultations with India regarding measures affecting the automobile sector that the United States considers are inconsistent with the WTO Agreement on Trade-Related Investment Measures.

- ▶ ***Korea - Airport Construction Procurement:*** The United States has initiated dispute settlement procedures challenging certain Korean government procurement practices in the area of airport construction. These practices, including domestic partnering requirements, the absence of access to challenge procedures, and discriminatory license requirements, appear inconsistent with Korea's obligations under the Agreement on Government Procurement (GPA). While Korea contends that airport construction is not covered under its GPA obligations, the United States maintains otherwise. Consultations held on March 17, 1999, failed to resolve this matter.

- ▶ ***Korea - Beef:*** The United States is proceeding to a WTO dispute settlement panel regarding Korea's beef import and distribution system. Korea maintains a segregated retail distribution system for imported beef that denies national treatment to beef from the United States. In addition, Korea impedes market access for imported beef through the maintenance of minimum price levels and widespread controls on importation and distribution. The United States regards these measures as inconsistent with the GATT 1994, the WTO Agreement on Agriculture, and the Agreement on Import Licensing Procedures. Consultations between the United States and Korea in March 1999 failed to resolve this dispute.

- ▶ ***Canada - Patent Protection:*** The TRIPS Agreement requires that Canada provide a patent term of 20 years from the date of filing. It also requires that Canada extend such protection to all patents in existence on January 1, 1996. However, Canada provides a 20-year patent term only to those patents filed on or after October 1, 1989; earlier patents receive only 17 years of protection from the date that the patent was granted. The United States will request WTO consultations regarding this provision of Canadian law.

- ▶ ***Argentina - Patent Protection:*** The United States will request WTO consultations regarding Argentina's failure to comply with its obligation to provide exclusive marketing rights under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), and its diminution in the level of protection provided to undisclosed test data submitted for marketing approval for agricultural chemicals in Argentina.

The United States is also prepared to request consultations with those countries that engage in customs practices which, contrary to the WTO Customs Valuation Agreement, undermine the benefits of market access commitments. USTR is closely examining reports of non-compliance with the Valuation Agreement, particularly in those countries with current obligations, such as Brazil, India, and Mexico.

In addition to pursuing these WTO cases, the Administration will initiate a Section 301 investigation regarding Canada's measures affecting tourism in the U.S.-Canada border region. For example, Ontario's measures generally prohibit a U.S. fisherman from keeping fish caught on lakes lying across the Minnesota-Ontario border if the U.S. fisherman does not spend the night in an Ontario commercial establishment or otherwise contribute to the Ontario tourist industry. These measures discriminate in favor of Canadian tourist establishments.

The decision to take WTO and Section 301 action was made in the context of the annual reviews and reports to the Congress under three key provisions of U.S. trade law:

- ▶ Super 301 – re-instituted by President Clinton on March 31, 1999 by Executive Order 13116 – enables the USTR to review U.S. trade expansion priorities and focus U.S. resources on eliminating significant unfair trade practices facing U.S. exports. This year's report identifies as key priorities the launch of the new round of global trade negotiations and strategic enforcement of bilateral, regional, and multilateral obligations of our trading partners. In addition to the efforts underway to secure implementation of existing commitments through dispute settlement and other WTO mechanisms, the report highlights this Administration's aggressive use of domestic U.S. trade law to open foreign markets and ensure fair treatment for our goods and services. Although this year's report does not identify a priority foreign country practice, it does identify a number of practices of significant concern, which the Administration will closely monitor in the months ahead..

- ▶ Special 301 – Section 182 of the Trade Act of 1974, as amended -- requires the USTR to identify annually foreign countries that deny adequate and effective protection of intellectual property rights or fair and equitable market access for U.S. persons that rely on intellectual property protection. As a result of this year's Special 301 review, Ambassador Barshefsky announced the following actions: initiating WTO dispute settlement procedures against Argentina, the EU, and Canada; scheduling a special out-of-cycle review in December 1999 of all developing countries' implementation of their obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement); monitoring China and Paraguay under Section 306 of the Trade Act of 1974, as amended; scheduling an out-of-cycle review of Malaysia in September 1999; placing 17 trading partners on the Special 301 Priority Watch List; and placing 37 trading partners on the Watch List.

- ▶ Title VII – also reinstated by Executive Order 13116 on March 31, 1999 – gives the USTR the means to address discriminatory government procurement practices. This year's report addresses Korea's procurement practices in airport construction as discriminating against U.S. products and services. Other countries whose procurement practices raise concern include Japan (in the areas of construction and computers) and Germany (in the heavy electrical industry). The report also highlights U.S.-led efforts to conclude a multilateral agreement on transparency in government procurement by the Third WTO Ministerial scheduled later this year, streamline the WTO Government Procurement Agreement so that it will be more accessible to developing countries, and combat international bribery and corruption.

A fourth trade law provision, section 1377 of the Omnibus Trade and Competitiveness Act of 1988, requires the USTR to conduct an annual review of foreign countries' compliance with telecommunications trade agreements. This year's review -- completed on March 30, 1999 -- focused on compliance with the WTO Basic Telecommunications Agreement by WTO Members, particularly the European Union, Mexico, Japan and Germany. The review indicated that the WTO agreement has increased market access for U.S. telecommunications companies in foreign markets, but that ongoing enforcement of the agreement is needed to ensure continued growth in world-wide competition for telecommunications services. *See* USTR News Release 99-29.